

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

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In re:

**Amy Lynn Henderson,**

Bankruptcy Case No.: 09-82159

Soc. Sec. No. xxx-xx-9749

Mailing Address: 2713 Omaha Street, , Durham, NC  
27705-

Debtor.

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**Amy Lynn Henderson,**

Plaintiff, A.P. No.: \_\_\_\_\_

**Falso Solutions, Option One Mortgage Corp.**

Defendant.

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**VERIFIED COMPLAINT TO VALUE COLLATERAL**

The Plaintiff, above-named, respectfully alleges as follows:

1. That this matter is a core proceeding pursuant to 28 U.S.C. § 157, and that the court has jurisdiction pursuant to 28 U.S.C. §§ 151, 157 and 1334.
2. This Complaint was filed, pursuant to 11 U.S.C. §§ 506, 1322(b)(2), 1325(a)(5) and 1327 (c), and in accordance with Bankruptcy Rule 7001, to value their residence for the purpose of determining the secured status of the mortgage claim held by Falso Solutions, Option One Mortgage Corp..
3. The Plaintiff is filed this bankruptcy case on December 3, 2009, seeking protection under Chapter 13 of Title 11 of the United States Code.
4. The Defendant Falso Solutions, Option One Mortgage Corp. is a corporation and/or a partnership with an office and principal place of business located at Post Office Box 77404, , Ewing, NJ 08628- . This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157 and 1334 and 11 U.S.C. §§ 506, 1322(b)(2), 1325(a)(5) and 1327 (c).
5. The Plaintiff owns real property located at 2713 Omaha Street Durham NC 27705. The legal description of the property is as follows:

BEING all of Lot 1 of the property of M.D. Fletcher, Jr., as per plat thereof recorded in plat Book 83, Page 11, Durham County Registry. The tax map or parcel ID No. is: 0823-17-00-2768

6. American Home Mortgage Servicing, Inc. holds a first Deed of Trust on such property with an payoff balance, as of the date this case was filed in the amount of approximately

\$133,233.32. This Deed of Trust originally given to and held by Option One mortgage Corporation. This Deed of Trust was recorded on May 11, 2005, in Book 4789 at Page 583, Durham County Registry of Deeds.

7. Falso Solutions, Option One Mortgage Corp. holds a second Deed of Trust on such property with a payoff balance, as of the date this case was filed in the amount of approximately \$28,900.00. This Deed of Trust originally given to and held by Option One Mortgage Corporation. This Deed of Trust was recorded on May 11, 2005, in Book 4789 at Page 596, Durham County Registry of Deeds.
8. The fair market value of the said property is not greater than \$108,000.00.
9. Pursuant to 11 U.S.C. §§ 506, 1322(b)(2), 1325(a)(5) and 1327(c) of the Bankruptcy Code and In re: Kidd, 161 B.R. 769 (Bankr. E.D.N.C. 1993), the loan with Falso Solutions, Option One Mortgage Corp. secured by a second Deed of Trust against the Plaintiff's said property, is an unsecured claim. In turn, pursuant to 11 U.S.C. § 506(d), the lien securing said loan is void.
10. The Deed of Trust held and/or serviced by the Defendant takes an additional security interest in, among other personal property, the Plaintiff's escrow account.
11. Pursuant to In re Bradsher, 2010 WL 545967 (Bankr. M.D.N.C. February 16, 2010), such additional collateral renders 11 U.S.C. § 1322(b)(2) inapplicable.

**WHEREFORE**, the Plaintiff prays the Court find that said claim held by Falso Solutions, Option One Mortgage Corp. which is secured by a second Deed of Trust upon said property, to be wholly unsecured, and that said claim should therefore be classified an unsecured claim for the purpose of this Chapter 13 case. The Plaintiff further prays that the Court order Falso Solutions, Option One Mortgage Corp. to cancel the said Deed of Trust forthwith upon the completion of the Plaintiff's Chapter 13 plan and the granting of the Plaintiff's discharge, and that the Court grant such other and further relief as to the Court seems just and proper.

Dated: March 15, 2011

**LAW OFFICES OF JOHN T. ORCUTT, P.C.**

/s Edward Boltz

Edward Boltz  
Attorney for the Plaintiff  
North Carolina State Bar No.: 23003  
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Raleigh, N.C. 27615  
(919) 847-9750

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**Amy Lynn Henderson,**

Plaintiff, A.P. No.: \_\_\_\_\_

**Falso Solutions, Option One Mortgage Corp.**

Defendant.

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**VERIFICATION OF COMPLAINT TO VALUE COLLATERAL**

I, Amy Lynn Henderson, the Plaintiff in the above captioned case, hereby state, under penalty of perjury, that, to the best of my knowledge, that:

1. American Home Mortgage Servicing, Inc. holds a first Deed of Trust on such property with an payoff balance, as of the date this case was filed in the amount of approximately \$133,233.32. This Deed of Trust originally given to and held by Option One mortgage Corporation. This Deed of Trust was recorded on May 11, 2005, in Book 4789 at Page 583, Durham County Registry of Deeds.
2. Falso Solutions, Option One Mortgage Corp. holds a second Deed of Trust on such property with a payoff balance, as of the date this case was filed in the amount of approximately \$28,900.00. This Deed of Trust originally given to and held by Option One Mortgage Corporation. This Deed of Trust was recorded on May 11, 2005, in Book 4789 at Page 596, Durham County Registry of Deeds.
3. The fair market value of the said property is not greater than \$108,000.00.
- 4.
5. The Deed of Trust held and/or serviced by the Defendant takes an additional security interest in, among other personal property, my escrow account.

Dated: 2/23/2011

/s/Amy Lynn Henderson

Amy Lynn Henderson

**Notarization:**

Sworn and subscribed before me on 2/23/2011

/s/Heather Varner

Heather Varner

Signature of Notary Public

Affix Seal or  
Stamp

Commission expires: 04/02/2013